

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

**PRIVACASH, INC.,**  
an Ohio corporation,

*Plaintiff,*

vs.

HONORABLE \_\_\_\_\_

CIVIL ACTION NO. 09-cv-391

**AMERICAN EXPRESS COMPANY,**  
a New York corporation,  
**AMERICAN EXPRESS INCENTIVE**  
**SERVICES, L.L.C.,** a Missouri corporation,  
and **AMERICAN EXPRESS TRAVEL**  
**RELATED SERVICES COMPANY, INC.,**  
a New York corporation

*Defendant.*

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, PrivaCash, Inc., alleges against defendants, American Express Company, American Express Incentive Services, L.L.C. and American Express Travel Related Services Company, Inc. (collectively referred to as “AMEX”), the following:

### THE PARTIES

1. Plaintiff, PrivaCash, Inc. ("PrivaCash"), is an Ohio corporation having a principal place of business at 23 E. Front Street, Suite 100, Monroe, MI.

2. Defendant, American Express Company ("AE Company"), is a New York Corporation having a principal place of business at 200 Vesey Street, World Financial Center, New York, NY.

3. Defendant, American Express Incentive Services, L.L.C. ("AE Incentive"), is a Missouri corporation having a principal place of business at 1400 S. Highway Drive, Fenton, MO.

4. Defendant, American Express Travel Related Services Company, Inc. (AE Travel), is a New York corporation having a principal place of business at 7777 American Expwy, Fort Lauderdale, FL and a principal office at 200 Vesey Street, Tax Dept, New York, N.Y..

5. AE Travel is registered to do business in the state of Wisconsin under Entity ID A046294 and has appointed as its Wisconsin registered agent CT Corporation System, 8040 Excelsior Drive, Suite 200, Madison, WI 53717.

6. Upon information and belief, AE Company has transacted and is transacting business in the Western District of Wisconsin.

7. Upon information and belief, AE Incentive has transacted and is transacting business in the Western District of Wisconsin.



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8. Upon information and belief, AE Travel has transacted and is transacting business in the Western District of Wisconsin.

### **JURISDICTION AND VENUE**

9. The claims plead arise under Patent Act, 35 U.S.C. § 1, *et seq.* and subject matter jurisdiction for such claims as conferred on the Court by 28 U.S.C. §§ 1331, 1332, and 1338.

10. The amount in controversy exceeds the sum of \$75,000.

11. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

### **COUNT I — PATENT INFRINGEMENT - U.S. PATENT NO. 7,328,181**

12. On February 5, 2008, U.S. Patent No. 7,328,181 ("the '181 patent," attached as Exhibit A), entitled "Method And System for Transacting An Anonymous Purchase Over The Internet," was duly and lawfully issued.

13. PrivaCash is the owner by assignment of the '181 patent.

14. Upon information and belief, likely to have evidentiary support after a reasonable opportunity for further investigation or discovery, AE Company, AE Travel, and AE Incentive has each infringed and continues to infringe, has induced and continues to induce others to infringe, and/or has committed and continues to commit acts of contributory infringement of, one or more claims of the '181 patent by making, using, selling, and offering for sale, open loop gift cards.



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15. As a result of the forgoing acts of infringement of the '181 patent, Privacash has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless AMEX's infringing activities are enjoined by this Court.

16. Unless a preliminary and permanent injunction is issued enjoining AMEX and its agents, servants, employees, attorneys, representatives, and all others acting on their behalf from the forgoing acts of infringement of the '181 patent, Privacash will be greatly and irreparably harmed.

### **DEMAND FOR RELIEF**

**WHEREFORE**, PrivaCash, Inc. requests a judgment in its favor and against American Express Company, American Express Incentive Services, L.L.C., and American Express Travel Related Services Company, Inc for the following relief:

A. A determination and declaration that American Express Company, American Express Incentive Services, L.L.C., and American Express Travel Related Services Company, Inc have been and/or are infringing the '181 patent directly, contributorily and/or by inducement;

B. Preliminary and permanent injunctive relief restraining American Express Company, American Express Incentive Services, L.L.C., and American Express Travel Related Services Company, Inc, together with their officers, agents, servants, employees, and attorneys, and such other persons in active concert or participation with them who receive actual notice



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of the order, from further infringing, engaging in an activity directed toward infringing, and/or preparing to infringe the '181 patent directly, contributorily, and/or by inducement;

- C. An award of damages to PrivaCash;
- D. An award of interest on all damages awarded;
- E. A determination that the infringement has been and/or is deliberate and

willful, and that damages awarded to PrivaCash be trebled;

F. An award to PrivaCash of all attorney fees and costs incurred by PrivaCash; and

- G. Such other and further relief as PrivaCash may be entitled to.

#### **V. DEMAND FOR JURY TRIAL**

PrivaCash demands a trial by jury for all issues so triable.

Respectfully submitted,

**BROOKS KUSHMAN P.C.**

By: /s/ Thomas A. Lewry

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Dated: June 19, 2009



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